

REMARKS

This Application has been carefully reviewed in light of the Final Action mailed December 13, 2006. Claims 1, 3-7, 9-16, 18-33, 35-38, and 40 are pending in this Application. Applicant respectfully requests reconsideration and favorable action for this Application.

Claims 1, 3-7, 9-12, 14, 15, and 20-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Keller-Tuberg. Independent Claims 1 and 20 recite in general an ability to aggregate ingress traffic streams into a single combined traffic stream without regard to any path or destination of any packet from any ingress traffic stream. By contrast, the Keller-Tuberg patent merely discloses multiplexing traffic from a large number of subscribers into a smaller number of ATM flows. (See col. 2, lines 43-45, of the Keller-Tuberg patent). In addition, the Keller-Tuberg patent discloses multiplexing ATM cells based on the ISP destination or VP/VC identifier for each ATM cell. (See FIGURE 2, multiplexing table, and col. 5, line 66, to col. 6, line 5, of the Keller-Tuberg patent). Thus, not only does the Keller-Tuberg patent fail to disclose multiplexing a plurality of ingress traffic streams into a single combined traffic stream as required by the claimed invention, the Keller-Tuberg patent also fails to perform its multiplexing without regard to any path or destination of any packet from any ingress stream as provided in the claimed invention.

The Examiner asserts that the Keller-Tuberg patent teaches ATM traffic being multiplexed at layer 2 without regard to any path or destination of the IP packet destination address which is at layer 3. There is no support in the Keller-Tuberg patent for this assertion. The Keller-Tuberg patent specifically teaches using path identifiers to

multiplex ATM traffic. (See col. 5, lines 56-60, of the Keller-Tuberg patent). Thus, the Keller-Tuberg patent expressly teaches away from a capability of aggregating a plurality of ingress traffic streams into a single combined traffic stream without regard to any path or destination of any packet from any ingress traffic stream as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1, 3-7, 9-12, 14, 15, and 20 are not anticipated by the Keller-Tuberg patent.

Claims 13, 26-33, 35-38, and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Keller-Tuberg. Independent Claim 1, from which Claim 13 depends has been shown above to be patentably distinct from the Keller-Tuberg patent. Independent Claim 26 has similar limitations shown above to be patentably distinct from the Keller-Tuberg patent. Therefore, Applicant respectfully submits that Claims 13, 26-33, 35-38, and 40 are patentably distinct from the Keller-Tuberg patent.

Claims 16, 18, and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Keller-Tuberg in view of Nagami, et al. Independent Claim 16 has similar limitations shown above to be patentably distinct from the Keller-Tuberg patent. Moreover, the Nagami, et al. patent does not include any additional disclosure combinable with the Keller-Tuberg patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 16, 18, and 19 are patentably distinct from the proposed Keller-Tuberg - Nagami, et al. combination.

This Response to Examiner's Final Action is necessary to address the Examiner's interpretation of the cited art in an attempt to support a rejection of the pending claims. This response to Examiner's Final Action could not have been

presented earlier as the Examiner has only now provided the current interpretation of the cited art.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees and credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in dark ink, appearing to read 'Charles S. Fish', with a stylized, cursive script.

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